

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

Bail Appl..No. 7062 of 2007()

CRIME NO.486/07 OF KOTTAKAL POLICE STATION

PETITIONER/ACCUSED

NADUTHODI MUHAMMEDALI, AGED 21 YEARS,
S/O.HAMZA, NADUTHODI HOUSE, ATTEERI,
KOTTAKAL (VIA), P.O.PUTHOOR, MALAPPURAM
DISTRICT.

BY ADV. SRI.ESM.KABEER
SRI.N.A.ABDUL MAJEED

RESPONDENTS: COMPLAINANT/STATE

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.
2. SUB INSPECTOR OF POLICE, KOTTAKKAL,
KOTTAKKAL POLICE STATION.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 22/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A. No. 7062 OF 2007

Dated this the 22nd day of November, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations in a crime registered under Secs.457 and 380 read with Sec.34 of the IPC. The crux of the allegations is that the accused persons, including the petitioner herein, had allegedly broken open the shop room of the victim in this case and had committed theft of cattle skin worth about Rs.24,000/-. The victim had not lodged any complaint before the police; but when one of the accused was arrested and interrogated, he made a confession statement wherein he revealed the information about the theft committed in the instant case and the involvement of himself and the other accused including the petitioner in the said crime. Accordingly, the crime has been registered. The petitioner has been shown as the 3rd accused

in the F.I.R. itself. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Vexatious allegations are being raised against the petitioner now. Except the alleged confession statement of the arrested accused, there is absolutely no material to justify an indictment against the petitioner. It is, in these circumstances, prayed that a lenient view may be taken and the petitioner may be granted anticipatory bail.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that there are absolutely no indications available in this case which can justify or suggest the need for invocation of the jurisdiction under Sec.438 of the Cr.P.C. The petitioner has to be interrogated. He may not be permitted to arm himself with an order of anticipatory bail in a case like the instant one, submits learned Public Prosecutor.

4. The Case Diary has been placed before me for my perusal. I have perused the same. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. This, I am satisfied, is a fit case where the petitioner must resort to the ordinary and normal course of appearing before the Investigating Officer or the learned

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Magistrate having jurisdiction and then seek regular bail in the usual course.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge